

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARIO SANDOVAL,

Plaintiff,

vs.

No. CIV 98-788 JP/LCS

**KENNETH S. APFEL, Commissioner,
Social Security Administration,**

Defendant.

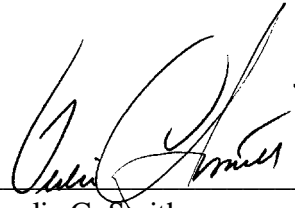
**MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION**

THIS MATTER comes before the Court upon Defendant's Opposed Motion to Dismiss (*Doc. 11*), filed June 30, 1999. The docket in this case indicates that Plaintiff has not filed any response to this motion. Even after allowing three additional days for mailing, Plaintiff's response was due not later than July 19, 1999. *See* D.N.M. LR-Civ. 7.6. D.N.M. LR-Civ. 7.5(b) provides that failure to serve or file a response constitutes consent to grant the motion.

The Court further notes that on March 11, 1999, Plaintiff was ordered to file and serve his Motion to Remand by April 2, 1999. To this date, Plaintiff has not filed the motion to remand. I propose finding that Plaintiff's lack of responsiveness indicates that he does not seek to pursue this matter. I recommend, therefore, that Defendant's Motion to Dismiss should be granted and this case dismissed without prejudice.

Timely objections to the foregoing may be made pursuant to 28 U.S.C. §636(b)(1)(C). Within ten days after a party is served with a copy of these proposed findings and recommendations that party may file with the Clerk of the District Court written objections to

such proposed findings and recommendations. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

A handwritten signature in black ink, appearing to read 'Leslie C. Smith', is written over a horizontal line.

Leslie C. Smith
UNITED STATES MAGISTRATE JUDGE